IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 15459 of 2005(M)

PETITIONER:

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1. E.K.MATHEW,
   1ST GRADE OVERSEER, SPECIAL BUILDING SUB DIVISION
   (PWD), GANDHI NAGAR, KOTTAYAM DISTRICT.

2. SUNNY GEORGE,
   1ST GRADE OVERSEER, PUBLIC WORKS DEPARTMENT,
   BLOCK DEVELOPMENT OFFICE, KADUTHURUTHY,
   KOTTAYAM DISTRICT.

BY ADV. SRI.BOBY MATHEW
SRI.E.T.MATHEW
SMT.PRIYA MAHESH
SRI.KRB.KAIMAL (SR.)

RESPONDENTS:

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1. KERALA PUBLIC SERVICE COMMISSION,
   PATTOM P.O., THIRUVANANTHAPURAM,
   REPRESENTED BY ITS SECRETARY.

2. STATE OF KERALA,
   REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
   IRRIGATION DEPARTMENT, SECRETARIAT,
   THIRUVANANTHAPURAM.

3. THE CHIEF ENGINEER (ADMN.),
   IRRIGATION DEPARTMENT, PUBLIC OFFICE,
   THIRUVANANTHAPURAM.

ADDL. RESPONDENTS:

4. HUSSEIN CHOLAKKAL
   S/O. MUHAMMED
   OFFICE OF THE EXECUTIVE ENGINEER
   I GRADE DRAFTSMAN, M.I. DIVISION
   MALAPPURAM

5. BENOY M.P., S/O. PURUSHAN M.V.,
   O/O. THE EXECUTIVE ENGINEER
   I GRADE DEFATSMAN, IRRIGATION DIVISION
   ERNAKULAM

6. P.V. ANILKUMAR, S/O. VASU P.V.
   RESEARCH ASSISTANT
   OFFICE OF THE DEPUTY DIRECTOR
   KERI, PEECHI

(IMPLEADED AS ADDL. RESPONDENTS 4 TO 6 AS PER THE ORDER DT. 13.4.2007 IN I.A. 1563/07)

7. V.K. SHEELA, III GRADE OVERSEER OF ASST. ENGINEER
   INLAND NAVIGATION SECTION, IRRIGATION DEPT.
   CHACKAI, THIRUVANANTHAPURAM

(ADDL. R7 IS IMPLEADED AS PER ORDER DT. 15.7.07 IN I.A. 9340/07)

R1 BY ADV. SRI.ALEXANDER THOMAS,SC,KPSC
R2 & 3 BY GOVERNMENT PLEADER SHRI. R. LAKSHMINARAYANAN
ADDL. R4 TO 6 SRI.R.RAMADAS
ADDL. R7 BY SR. ADV. SRI.B.UNNIKRISHNA KAIMAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P(C) 15459/05

PETITIONER'S EXTS:

EXT.P1: TRUE COPY OF THE PROCEEDINGS OF THE CHIEF ENGINEER, PWD ADMINISTRATION DT. 6.11.2003

EXT.P2: -DO- OF THE VACANCY NOTIFICATION DT. 15.10.2004 PUBLISHED BY THE 1ST RESPONDENT IN THE PSC BULLETIN FOR THE POST OF ASST. ENGINEER (CIVIL)

EXT.P3: -DO- OF THE COMMUNICATION DT. 6.5.2005, NO: GRIC (3) 16952/2004 ISSUED BY 1ST RESPONDENT TO THE 1ST PETITIONER

EXT.P4: -DO- OF THE NOTIFICATION S/L NO: 102/2005/ERVI(A)/5231/05/EW (CATEGORY NO: 139/2004) DT. 22.10.2005 ISSUED BY THE 1ST RESPONDENT

EXT.P5: -DO- OF THE COMMUNICATION NO: G.R.1C(3) 16952/G.W. DT.22.11.2005 RECEIVED BY THE 1ST PETITIONER

EXT.P6: -DO- OF THE RANKED LIST FOR THE POST OF ASSISTANT ENGINEER (CIVIL) NO: 485/2005/SS (SPECIAL-A) DT. 31.12.2005

jj /TRUE COPY/

P.A. TO JUDGE

K.BALAKRISHNAN NAIR , J.

Writ Petition (C) No.15459 of 2005-M

Judgment

The petitioners are Third Grade Overseers working in the Irrigation Department. The first petitioner was appointed to the said post on 20.04.1992 and the second petitioner, on 03.12.1992. Later, on the advice of the Public Service Commission, the first petitioner was appointed in the PWD on 06.11.2003 as First Grade Overseer and the second petitioner was appointed in the PWD in the very same post on 01.12.2003. While so, the Public Service Commission invited applications for appointment to the post of Assistant Engineer (Civil) in the Irrigation Department by notification dated 15.10.2004. The petitioners submitted their applications. But, they were not called for the written test and their applications were rejected by issuing Ext.P3 and another similar memo. So, this Writ Petition was filed challenging the said action taken by the Public Service Commission. The petitioners submit, they were not confirmed in the PWD, nor their probation was declared and so, they have a lien in the irrigation Department. Therefore, their applications should have been considered by virtue of Rule 8 of the General Rules of the KS & SSR. I

think, the said interpretation, if accepted, will be stretching the provisions of Rule 8 too far. The petitioners should be working in the Irrigation Department for submitting applications for the post of Assistant Engineer (Civil) in that department. It is a selection for departmental candidates. All ex employees of the Irrigation Department cannot be given a chance to apply for the posts set apart in the department. So, I am of the view that the stand taken by the Public Service Commission cannot be said to be unreasonable or irrational. In the result, the Writ Petition fails and it is dismissed.

16.11.2007 **K.BALAKRISHNAN NAIR,JUDGE**

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